

REMARKS

Claim Rejections - 35 U.S.C. § 112

Claims 4 and 5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because the Examiner perceived the claims to be unclear likely to issues with the antecedent basis in claim 3, from which claims 4 and 5 depend. Claims 4 and 5 have been amended, and there should no longer be an issue with the amended version of the claims.

Claim Rejections - 35 U.S.C. § 102

Claims 1 - 6 are rejected 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,963,916 to Kaplan ("Kaplan").

The pertinent part of claim 1, as amended, recites "receiving user input defining a plurality of music search attributes, wherein at least one of the plural music search attributes describe an emotional quality of the music content; and

searching for music samples based upon the user provided search attributes" (emphasis added).

Kaplan does not teach searching based upon musical attributes including at least one that describes an emotional quality of the music. Such emotional qualities may be Intense, Happy, Sad, Mellow, Romantic, Heartbreaking, Aggressive, or Upbeat, etc... Kaplan simply teaches categorizing and searching music according to "hot zones," musical categories, or genres. The "hot zones" in Kaplan allow users to perform searches in particular music categories, such as classical music, or by composer, or by conductor or by whether the music is instrumental, or ensemble. Kaplan at Col. 14 lines 4-15. These categories can be seen in Figure 21 of Kaplan. Kaplan, also teaches searching by Genres 221-241, which can be seen in Figures 11-12, reproduced below. The Genres include: "Pop/Dance" genre (hot zone 221), a "Rock/Alternative" genre (hot zone 222), a "Heavy Metal" genre (hot zone 223), a "R&B Soul" genre (hot zone 224), a "Rap" genre (hot zone 225), a "Classical" genre (hot zone 226), a "Jazz" genre (hot zone 227), a "Movies/Shows" genre (hot zone 228), a "Country" genre (hot zone 229), a "New Age" genre (hot zone 230), a "World" genre (hot zone 231), a "Blues" genre (hot zone 232), a "Gospel/Religious" genre (hot zone 234), a "Vocalist" genre (hot zone 235), a "Spoken Word" genre (hot zone 236), a "Children's" genre (hot zone 237), a "Comedy/Novelty" genre

(hot zone 238), a "Christmas/Seasonal" genre (hot zone 239), a "Reggae/Ska" genre (hot zone 240), and a "Latin" genre (hot zone 241) Kaplan at Col. 14, lines 26-34.

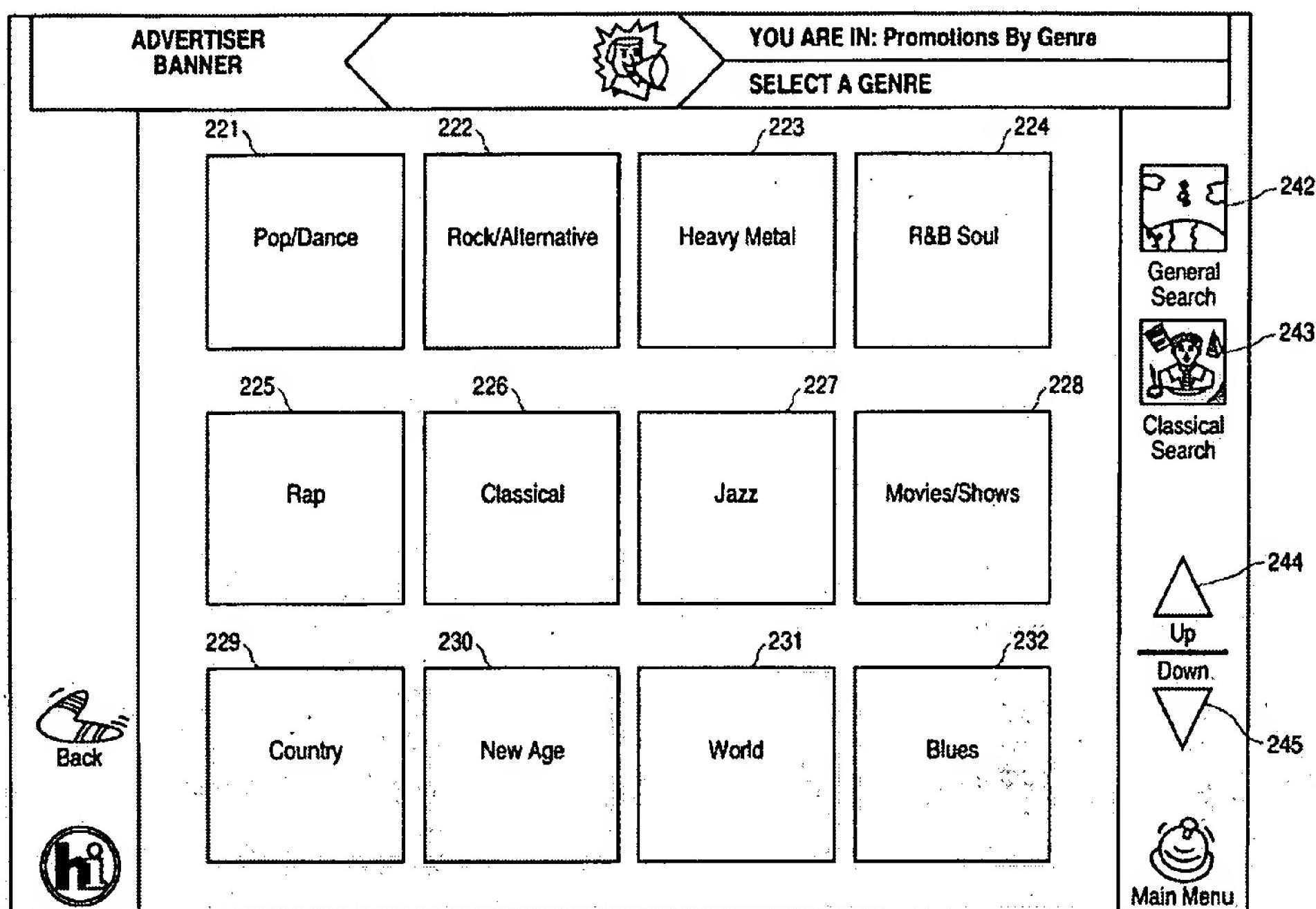


FIG. 11

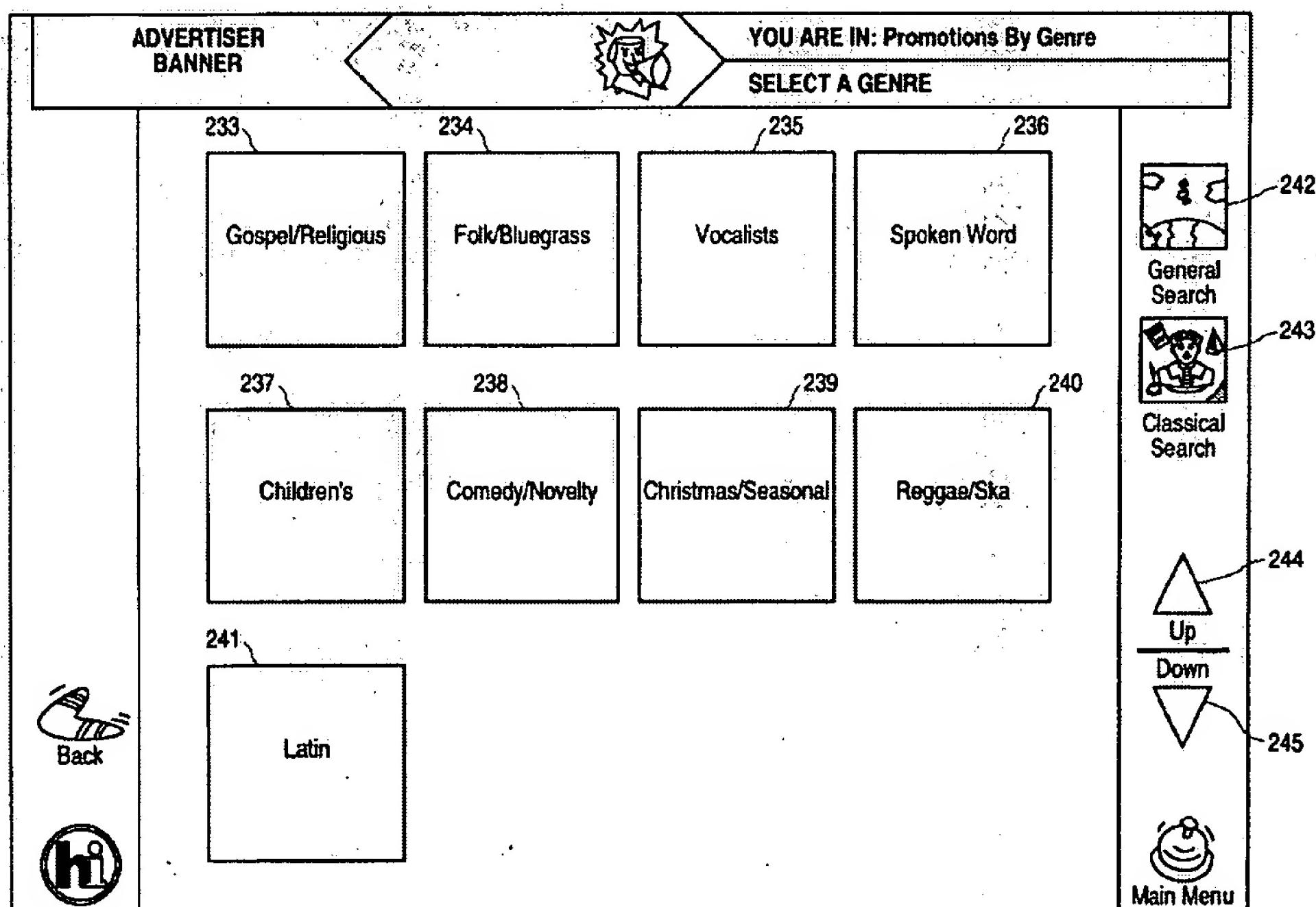


FIG. 12

This type of categorization by Kaplan was recognized in the Background section of the present application as limiting the number of choices available for a consumer when selecting music. Page 1, lines 20-23. In particular, the Background indicates:

One reason for the limited number of choices is that conventionally music is classified only in restricted number of classes, for example, music may be stored at a retail store under the name of the artist, genre (Rock, blues, Jazz etc..) label, and title of the album etc. Page 1, lines 23-25.

In contrast, searching by music attribute allows for a more specific search, which should produce content more tailored to the consumer's desires and more to the liking of the consumer than if the search is just based on genre, artist or label etc... While an attribute may generally be considered a parameter, it is a specific type of parameter not taught by Kaplan, and is distinguished from the parameters taught by Kaplan. The specification of the present application gives some examples of these attributes, as at Page 8, lines 4-11. These attributes define certain feature vectors used for music searching. Id.

These attributes and feature vectors are described in detail in another application, Application Serial No. 09/533,045, entitled "Method for Creating A Database for Comparing Music Attributes," which was incorporated by reference in its entirety on page 8 of the present application. The attributes are described throughout that application, which is all of record in the present application. One area that is helpful in understanding the attributes claimed, in amended claim 1, is the Summary of the Invention, a portion of which was added to the present application by this response, a portion of which is reproduced below.

The process then compares a plurality of music samples, wherein comparing feature vectors compares the music samples. Thereafter, the process stores the compared data. Examples of some feature vectors defined by the process are as follows:

An emotional quality vector, wherein the emotional quality vector is based upon a music listener's response to questions regarding a music sample indicating if the music sample is Intense, Happy, Sad, Mellow, Romantic, Heartbreaking, Aggressive, or Upbeat, etc.;

A vocal quality vector, wherein the vocal vector is based upon a music listener's response to questions regarding a music sample indicating that the music sample includes a Sexy voice, a Smooth voice, a Powerful voice, a Great voice, or a Soulful voice, etc.;

A sound quality vector, wherein the sound quality vector is based upon a music listener's response to questions regarding a music sample indicating if the music sample has a Strong beat, is simple, has a good groove, is speech like, or emphasizes a melody, etc.;

A situational quality vector, wherein the situational quality vector is based on a music listener's response to questions regarding a music sample indicating if the music sample is good for a workout, a shopping mall, a dinner party, a dance party, slow dancing, or studying;

A genre vector, wherein the genre vector depends upon an expert listener's response to the questions regarding a music sample indicating if the music sample belongs to a plurality of genres including, Alternative, Blues, Country,

Electronic/Dance, Folk, Gospel, Jazz, Latin, New Age, R&B, Soul, Rap, Hip-Hop, Reggae, Rock or others;

An ensemble vector, wherein the ensemble vector depends upon an experts listener's response to questions regarding a music sample indicating whether the music sample includes a female solo, male solo, female duet, male duet, mixed duet, female group, male group or instrumental; and

An instrument vector, wherein the instrument vector depends upon an expert listener's response to questions regarding a music sample indicating whether the music sample includes an acoustic guitar, electric guitar, bass, drums, harmonica, organ, piano, synthesizer, horn, or saxophone.

One of the advantages of the present system is that feature vectors can describe music content. This assists in creating a music space for various attributes of music.

Another advantage of the present invention is that since the feature vectors define music attributes, music can be searched based upon music content.

Claims 2-6 depend from amended claim 1 and are allowable for at least the same reasons as independent claim 1. New claims 8-11 include different combinations and elements involving the aforementioned attributes or feature vectors, which are not taught by any of the references of record.

Claim 7 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,855,008 to Goldhaber et al., ("Goldhaber").

Claim 7 was cancelled without prejudice, and this rejection is therefore moot. Therefore, all of the pending claims are novel over the cited prior art are in condition for allowance. Allowance of the application is therefore requested.

Information Disclosure Statement

It has been noted that the Examiner has not returned initialed PTO Form 1449's from the 10/24/00 IDS or the 5/2/01 IDS. The Examiner is kindly requested to do so in the next action.

Conclusion

Accordingly, it is believed that this application is now in condition for allowance and an early indication of its allowance is solicited. However, if the Examiner has any further matters that need to be resolved, a telephone call to the undersigned attorney at 415-318-1168 would be appreciated.

Respectfully submitted,



Peter G. Mikhail

Reg. No. 46,930

December 17, 2004

Date

PARSONS HSUE & DE RUNTZ LLP
655 Montgomery Street, Suite 1800
San Francisco, CA 94111
(415) 318-1160 (main)
(415) 318-1168 (direct)
(415) 693-0194 (fax)